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M & V Painting, Inc., Mike Piper Painting, Vic Piper, an individual, and Michael B. Piper, an individual, a single employer and International Brotherhood of Painters and Allied Trades, Painters Local 1474, AFL-CIO. Cases 7-CA-34567(1) and 7-CA-34567(2)

September 5, 1996

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND FOX

On June 27, 1994, the National Labor Relations Board issued an Order adopting, in the absence of exceptions, the administrative law judge's decision ordering the Respondent, M & V Painting, Inc., Piper Painting, Inc., and Vic Piper, an individual, a single employer, to, inter alia, make whole certain unit employees for loss of earnings and other benefits they may have suffered as a result of the Respondents' unfair labor practices in violation of Section 8(a)(1), (3), and (5) of the National Labor Relations Act. On February 3, 1995, the United States Court of Appeals for the Sixth Circuit entered its judgment enforcing in full the Board's Order.

A controversy having arisen over the amount of backpay due the discriminatees, on March 18, 1996, the Regional Director for Region 7 issued a compliance specification and notice of hearing alleging the amounts owed under the Board's Order by the Respondent and additional alleged Respondents Mike Piper Painting and Michael B. Piper, an individual, a single employer, and notifying the Respondents that they should file a timely answer complying with the Board's Rules and Regulations. Although the Respondents originally filed answers to the compliance specification, by letter dated July 9, 1996, they withdrew their answers.

On August 2, 1996, the General Counsel filed with the Board a Motion for Summary Judgment, with exhibits attached. On August 6, 1996, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondents filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, although the Respondents initially filed answers to the compliance specification, they subsequently withdrew those answers. Such a withdrawal has the same effect as the failure to file an answer, i.e., the allegations in the compliance specification are deemed admitted. See *Maislin Transport*, 274 NLRB 529 (1985).

Accordingly, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. We therefore conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondents of the amounts to the discriminatees, plus interest accrued on the amounts to the date of payment.

FINDINGS OF FACT

About March 1993, Michael B. Piper, an individual, d/b/a Mike Piper Painting (Respondent Mike Piper), was established by the Respondent as a subordinate instrument to and a disguised continuation of M & V Painting, Inc., Piper Painting, Inc., and Vic Piper, an individual, a single employer. Based on this conduct, Respondent Mike Piper and Respondent M & V Painting, Inc., Piper Painting, Inc., and Vic Piper, an individual, a single employer, are, and have been at all material times, alter egos and a single employer within the meaning of the Act.

ORDER

The National Labor Relations Board orders that the Respondents, M & V Painting, Inc., Piper Painting, Inc., Vic Piper, an individual, and Michael B. Piper, an individual, d/b/a Mike Piper Painting, a single employer, Port Huron, Michigan, their officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their

names, plus interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

Robert D. Halliday, Sr.	\$ 77,851.72
Robert D. Halliday, Jr.	53,378.99
Howard Quant	56,531.32
Benjamin Ward	22,025.62
Robert Ward	49,907.66
Francis Frazer	95,089.00

TOTAL	354,784.31
Dated, Washington, D.C. September 5, 1996	

William B. Gould IV,	Chairman
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Margaret A. Browning,	Member
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Sarah M. Fox,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD